SUPREME COURT, U. S.

No. 71-1018

Supreme Court, U. S.
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MICHAEL RODAK, JR., CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1971

JOHN MALONEY, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

ERWIN N. GRISWOLD,
Solicitor General,
Department of Justice,
Washington, D.C. 20530.

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MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

After a jury trial in the United States District Court for the Southern District of New York, petitioner was convicted with others of having conspired to buy, receive or possess property stolen from an interstate shipment, in violation of 18 U.S.C. 371, and of a substantive violation of 18 U.S.C. 659. He was sentenced to concurrent prison terms of five years and seven years, respectively. The court of appeals reversed the conviction on the conspiracy count, but

affirmed the conviction on the substantive count (Pet. App. 1a-9a).

The pertinent facts are set forth in the opinion of the court of appeals. Petitioner challenges the sufficiency of the evidence to support his conviction on the substantive count. This contention was raised below and has been fully answered in the court of appeals' opinion (Pet. App. 2a-5a) on which we rely here.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ERWIN N. GRISWOLD,
Solicitor General.

MARCH 1972.

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